IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Jai Kishan. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1014/2006
against the order dated 18-1-2006 passed
by the Special Judge, NDPS Act Cases,
Jodhpur, in Criminal Misc. Case No.16/2006.

...

Date of Order: October 09, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. B.S. Rathore, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 18-1-2006 passed by the Special Judge, NDPS Act Cases, Jodhpur (for short, "the trial Court" hereinafter) in Criminal Misc. Case No. 59/2005, whereby the trial Court dismissed the application filed by the petitioner under Section 457 of the Code.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned.

It appears that the vehicle bearing registration No.

RJ.04-T-0592 was seized by the police on 14-8-2005 while it was transporting 105 kgs of contraband poppy straw. The petitioner is the registered owner of the said vehicle; however, the petitioner came with the case that on 20-9-2004, he had sold the said vehicle to Sukha Ram S/o Babu Lal and received a sum of Rs.50,000/- in advance and it was agreed that a sum of Rs.91,000/- was to be paid after one month and the remaining amount was to be paid in 41 instalments of @ Rs.9400/- per month.

Before the trial Court, the petitioner came with the specific case that he had sold the vehicle almost a year ago from the date of the occurrence. In my view, the petitioner cannot be said to be entitled to possess the vehicle after having sold the same to Sukha Ram. In this view of the matter, the trial Court was justified in dismissing the application holding that the petitioner is not entitled to possess the said vehicle during pendency of the case. No case for interference is made out.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs